

§ 682.407

34 CFR Ch. VI (7–1–99 Edition)

(b) Notwithstanding paragraph (a) of this section, the Secretary may waive his right to refuse to make or require repayment of a reinsurance payment if, in the Secretary's judgment, the best interests of the United States so require. The Secretary's waiver policy for violations of paragraph (a)(3) or (a)(5) of this section is set forth in appendix D to this part.

(Approved by the Office of Management and Budget under control number 1840–0538)

(Authority: 20 U.S.C. 1078, 1078–1, 1078–2, 1078–3, 1082)

[57 FR 60323, Dec. 18, 1992, as amended at 58 FR 9119, Feb. 19, 1993; 59 FR 25746, May 17, 1994; 59 FR 33356, June 28, 1994; 59 FR 61429, Nov. 30, 1994; 61 FR 60486, Nov. 27, 1996; 64 FR 18980, Apr. 16, 1999]

§ 682.407 [Reserved]

§ 682.408 Loan disbursement through an escrow agent.

(a) *General.* (1) A guaranty agency or an eligible lender may act as an escrow agent for the purpose of receiving Stafford and PLUS loan proceeds disbursed by an eligible lender other than a school, State lender, or a State agency or instrumentality, and transmitting those proceeds to the borrower's school if the lender and the escrow agent have entered into a written agreement for this purpose.

(2) The agreement must provide that—

(i) The lender may make payments into an escrow account that is administered by the escrow agent in accordance with the requirements of paragraph (c) of this section and § 682.207(b)(1)(iv);

(ii) The lender shall promptly notify the borrower's school when funds are escrowed for the borrower; and

(iii) The escrow agent is authorized to—

(A) Transmit the proceeds according to the note evidencing the loan;

(B) Commingle the proceeds of the loans paid to it pursuant to an escrow agreement;

(C) Invest the loan proceeds only in obligations of the Federal Government or obligations that are insured or guaranteed by the Federal Government; and

(D) Retain for its own use interest or other earnings on those investments.

(b) *Disbursement by the lender.* Subject to § 682.207(b)(1)(iii), the lender may disburse the loan proceeds to the escrow agent using any method agreed to by the escrow agent and the lender.

(c) *Transmittal of FFEL loan proceeds by the escrow agent.* (1) The escrow agent shall transmit Stafford and SLS loan proceeds received from a lender under this section to a school in accordance with the requirements of § 682.207(b)(1)(ii) and (iv) not later than 21 days after the agent receives the funds from the lender.

(2) The escrow agent shall transmit PLUS loan proceeds received from a lender under this section to a borrower in accordance with the requirements of § 682.207(b)(1)(ii) and (iv) not later than 21 days after the agent receives the funds from the lender.

(d) *Return of untransmitted proceeds.* The escrow agent shall return any untransmitted proceeds of a loan to the lender within 15 working days after receiving information indicating that the student has not enrolled, or has ceased to be enrolled on at least a half-time basis, for the period of enrollment for which the loan was intended.

(Authority: 20 U.S.C. 1078, 1082)

[57 FR 60323, Dec. 18, 1992, as amended at 64 FR 18980, Apr. 16, 1999]

§ 682.409 Mandatory assignment by guaranty agencies of defaulted loans to the Secretary.

(a)(1) If the Secretary determines that action is necessary to protect the Federal fiscal interest, the Secretary will direct a guaranty agency to promptly assign to the Secretary any loan held by the agency on which the agency has received payment under § 682.402(f), 682.402(k), or 682.404. An orderly transition from the FFEL program to the Federal Direct Student Loan (FDSL) Program and the collection of unpaid loans owed by Federal employees by Federal salary offset are, among other things, deemed to be in the Federal fiscal interest. Unless the Secretary notifies an agency, in writing, that other loans must be assigned to the Secretary, an agency must assign any loan that meets all of the following criteria as of April 15 of each year: